

AUG. 14. 2008 -1:46PM

HARNES DICKEY PIERCE

NO. 297 P. 1

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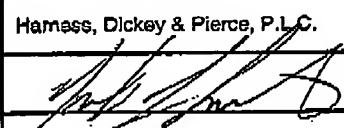
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TRANSMITTAL FORM (to be used for all correspondence after initial filing)	Application Number	10/673,296	
	Filing Date	September 29, 2003	
	First Named Inventor	Michael Mittelstein, et al.	
	Art Unit	3746	
	Examiner Name	EMMANUEL SAYOC	
Total Number of Pages in This Submission	7	Attorney Docket Number	P03115 (6639-000035/US)

ENCLOSURES (check all that apply)		
<input type="checkbox"/> Fee Transmittal Form <input type="checkbox"/> Fee Attached <input type="checkbox"/> Amendment / Reply <input type="checkbox"/> After Final <input type="checkbox"/> Affidavits/declaration(s) <input type="checkbox"/> Extension of Time Request <input type="checkbox"/> Express Abandonment Request <input type="checkbox"/> Information Disclosure Statement <input type="checkbox"/> Certified Copy of Priority Document(s) <input type="checkbox"/> Response to Missing Parts/ Incomplete Application <input type="checkbox"/> Response to Missing Parts under 37 CFR 1.52 or 1.53	<input type="checkbox"/> Drawing(s) <input type="checkbox"/> Licensing-related Papers <input checked="" type="checkbox"/> Petition for Reconsideration of Petition Under 37 CFR 1.47(a) <input type="checkbox"/> Petition to Convert to a Provisional Application <input type="checkbox"/> Power of Attorney, Revocation Change of Correspondence Address <input type="checkbox"/> Terminal Disclaimer <input type="checkbox"/> Request for Refund <input type="checkbox"/> CD, Number of CD(s) _____	<input type="checkbox"/> After Allowance Communication to Technology Center (TC) <input type="checkbox"/> Appeal Communication to Board of Appeals and Interferences <input type="checkbox"/> Appeal Communication to TC (Appeal Notice, Brief, Reply Brief) <input type="checkbox"/> Proprietary Information <input type="checkbox"/> Status Letter <input checked="" type="checkbox"/> Other Enclosure(s) (please identify below): Copy of Declaration signed by the Inventor Copy of the Assignment signed by the Inventor
Remarks: The Commissioner is hereby authorized to charge any additional fees that may be required under 37 CFR 1.16 or 1.17 to Deposit Account No. 08-0750. A duplicate copy of this sheet is enclosed.		

SIGNATURE OF APPLICANT, ATTORNEY, OR AGENT			
Firm Name	Harness, Dickey & Pierce, P.L.C.		
Signature			
Printed name	Michael L. Smith		
Date	August 14, 2008	Reg. No.	31,441

CERTIFICATE OF TRANSMISSION/MAILING			
I hereby certify that this correspondence is being facsimile transmitted to the USPTO or deposited with the United States Postal Service with sufficient postage as first class mail in an envelope addressed to: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450 on the date shown below.			
Typed or printed name	Michael L. Smith	Express Mail Label No.	
Signature		Date	August 14, 2008

This collection of information is required by 37 CFR 1.5. The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.14. This collection is estimated to 12 minutes to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

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PATENT

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Application No.: 10/673,296
Filing Date: September 29, 2003
Applicant: Michael Mittelstein, et al.
Group Art Unit: 3746
Examiner: EMMANUEL SAYOC
Title: A PERISTALTIC PUMP WITH A MOVEABLE PUMP HEAD
Attorney Docket: P03115 (6639-000035/US)

Mail Stop Petitions
Commissioner for Patents
P.O. Box 1450
Alexandria, Virginia 22313-1450

REQUEST FOR RECONSIDERATION OF PETITION UNDER 37 CFR 1.47 (a)

Dear Petitions Examiner:

The enclosed combined Declaration and Power of Attorney and Assignment documents by co-inventor, Robert Schauer, renders the previous petition under 37 CFR § 1.47 (a) moot. The application should now be in condition for issuance.

If there are any questions, the Examiner is encouraged to contact the undersigned at (314) 446-7646.

Respectfully submitted,



Michael L. Smith
Reg. No.: 35,685

DATE: August 14, 2008

CORRESPONDENCE ADDRESS:

Bausch & Lomb Incorporated
One Bausch & Lomb Place
Rochester, New York 14604-2701

MLS:csy

AUG 14 2008

PATENT

Attorney's Docket No. P03115
(6639-000035/US)

COMBINED DECLARATION AND POWER OF ATTORNEY

As a below-named inventor, I hereby declare that:

TYPE OF DECLARATION

This declaration is of the following type:

- provisional
- ☒ original
- design
- divisional
- continuation
- continuation-in-part (CIP)

INVENTORSHIP IDENTIFICATION

My residence, post office address and citizenship are as stated below next to my name. I believe I am the original, first and sole inventor (if only one name is listed below) or an original, first and joint inventor (if plural names are listed below) of the subject matter which is claimed and for which a patent is sought on the invention entitled:

A PERISTALTIC PUMP WITH A MOVEABLE PUMP HEAD

which was filed on September 29, 2003, as United States Patent Application No. 10/673,296

ACKNOWLEDGEMENT OF REVIEW OF PAPERS AND DUTY OF CANDOR

I hereby state that I have reviewed and understand the contents of the above-identified specification, including the claims, as amended by any amendment referred to above.

I acknowledge the duty to disclose all information which is material to the patentability of this application in accordance with Title 37, Code of Federal Regulations, §1.56(a).

- In compliance with this duty, there is attached an information disclosure statement.
37 CFR 1.97.

PRIORITY CLAIM (35 U.S.C. §119)

I hereby claim foreign priority benefits under Title 35, United States Code, §119 of any foreign application(s) for patent or inventor's certificate or of any PCT international application(s) designating at least one country other than the United States of America listed below and have also identified below any foreign application(s) for patent or inventor's certificate or any PCT international application(s) designating at least one country other than the United States of America filed by me on the same subject matter having a filing date before that of the same application(s) of which priority is claimed.

- x no such applications have been filed.
such applications have been filed as follows:

PRIOR FOREIGN/PCT APPLICATION(S) FILED WITHIN 12 MONTHS (6 MONTHS FOR DESIGN) PRIOR TO THIS APPLICATION AND ANY PRIORITY CLAIMS UNDER 35 U.S.C. §119

Country	Application Number	Date of Filing (day, month, year)

**CLAIM FOR BENEFIT OF EARLIER U.S./PCT APPLICATION(S)
UNDER 35 U.S.C. 120**

I hereby claim the benefit under Title 35, United States Code, §119 and/or §120 of any United States application(s) that is/are listed below and, insofar as the subject matter of each of the claims of this application is not disclosed in that/those prior application(s) in the manner provided by the first paragraph of Title 35, United States Code, §112, I acknowledge the duty to disclose all material information as defined in Title 37, Code of Federal Regulations, §1.56(a) which occurred between the filing date of the prior application(s) and the national filing date of this application.

		Status (check one)	
U.S. Applications	U.S. Filing Date	Patented	Pending
1. 0/			
2. 0/			

I hereby claim the benefit under Title 35, United States Code §119(e) of any United States provisional application(s) listed below.

U.S. Applications	U.S. Filing Date
1.	
2.	

AUG 14 2008

POWER OF ATTORNEY

As a named inventor, I hereby appoint the following attorney(s) and/or agent(s) to prosecute this application and transact all business in the Patent and Trademark Office connected therewith.

Michael L. Smith, Reg. No. 35,685
CUSTOMER NUMBER 23702

Send correspondence to:

Michael L. Smith
Bausch & Lomb Incorporated
One Bausch & Lomb Place
Rochester, NY 14604

Direct telephone calls to:

Michael L. Smith
(314) 446-7646

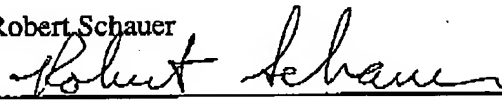
DECLARATION

I hereby declare that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both under Section 1001 of Title 18 of the United States Code and that such willful false statements may jeopardize the validity of the application of any patent issued thereon.

SIGNATURE(S)

Full name of first inventor: Robert Schauer

Inventor's signature



Date 08/04/2008

Country of Citizenship: US

Residence: 15831 Bristol Circle
Westminster, California 92683
US

Post Office Address Same as above

Attorney Docket No.: P03115
(6639-000035/US)
Serial Number: 10/673,296
Filing Date: September 29, 2003

ASSIGNMENT

WHEREAS,

Robert Schauer

(hereinafter referred to as ASSIGNOR), has made an invention and has executed on even date herein an application for Letters Patent of the United States therefor entitled:

A PERISTALTIC PUMP WITH A MOVEABLE PUMP HEAD

WHEREAS,

Bausch & Lomb Incorporated, a corporation of the State of New York, having offices at One Bausch & Lomb Place, Rochester, New York 14604, United States of America (hereinafter referred to as ASSIGNEE), is desirous of acquiring the entire interest in and to said invention and under said Letters Patent or similar legal protection to be obtained therefor in the United States and in any and all foreign countries.

NOW, THEREFORE, TO ALL WHOM IT MAY CONCERN: Be it known that in consideration of the payment by ASSIGNEE to ASSIGNOR of the sum of One Dollar (\$1.00) and for other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, ASSIGNOR hereby sells, assigns and transfers to ASSIGNEE the full and exclusive right, title and interest to said invention and in and to all Letters Patent or similar legal protection in the United States and its territorial possessions and in any and all foreign countries to be obtained for said invention by said application or any continuation, division, renewal, substitute or reissue thereof or any legal equivalent thereof in a foreign country for the full term or terms for which the same may be granted, including all convention rights.

ASSIGNOR hereby covenants that no assignment, sale, agreement or encumbrance has been or will be made or entered into which would conflict with this assignment and sale.

ASSIGNOR further covenants that ASSIGNEE will, upon its request, be provided promptly with all pertinent facts and documents relating to said application, said invention and said Letters Patent and legal equivalents in foreign countries as may be known and accessible to ASSIGNOR and will testify as to the same in any interference or litigation related thereto and will promptly execute and deliver to ASSIGNEE or its legal representative any and all papers, instruments or affidavits required to apply for, obtain, maintain, issue and enforce said application, said invention and said Letters Patent and said equivalents thereof in any foreign country which may be necessary or desirable to carry out the purposes thereof.

Attorney Docket No.: P03115
(6639-000035/US)

IN WITNESS WHEREOF, ASSIGNOR has hereunto set hand and seal.

08/04/2008
Date

Robert Schauer
Robert Schauer

State of CALIFORNIA)
County of ORANGE) ss.

I, DONNA J. LEWIS, a Notary Public in and for the State and County aforesaid, do hereby certify that **Robert Schauer** personally known to me to be the same person whose name is subscribed to the foregoing instrument, appeared before me this day in person and acknowledged that he/~~she~~ signed and delivered the said instrument as his/~~her~~ free and voluntary act for the uses and purposes therein set forth.

In Witness Whereof, I have hereunto set my hand and Notarial Seal this 4th day of AUGUST, 2008.

Donna J. Lewis
Notary Public

